

BILL NO. S-95-06-13

SPECIAL ORDINANCE NO. S-39-95

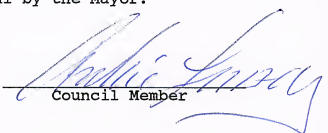
AN ORDINANCE approving Construction Contract 95-01, Restoration of Water Maintenance Utility Cuts between ROBBCO, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:


SECTION 1. That the Construction Contract #95-01, Restoration of Water Maintenance Utility Cuts by and between ROBBCO, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

restoration of Water Maintenance Utility Cuts; involving a total cost of Two Hundred Seventy Thousand Eight Hundred Twenty-One and 87/100 Dollars (\$270,821.87.) Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

  
J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Lunsey, seconded by \_\_\_\_\_, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 6-13-95

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Lunsey, seconded by \_\_\_\_\_, and duly adopted, placed on its passage.  
PASSED Lost by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 6-27-95

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,

Indiana, as (ANNEXATION) \_\_\_\_\_ (APPROPRIATION) \_\_\_\_\_ (GENERAL) \_\_\_\_\_

(SPECIAL) \_\_\_\_\_ (ZONING) \_\_\_\_\_

ORDINANCE

RESOLUTION

NO. J-39-95

on the 27th day of June, 1995

ATTEST:

(SEAL)

Sandra E. Kennedy

Don J. Schmidt

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of June, 1995,

at the hour of 11:00 o'clock PM, M., E.S.T.

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 30th day of June,

1995, at the hour of 12:30 o'clock PM, M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR

BILL NO. S-95-06-13

REPORT OF THE COMMITTEE ON  
PUBLIC WORKS  
ARCHIE L. LUNSEY - DAVID C. LONG - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving Construction  
Contract 95-01, Restoration of Water Maintenance Utility Cuts between  
ROBICO, INC. AND THE City of Fort Wayne, Indiana, in connection with the  
Board of Public Works

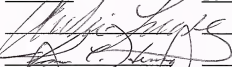
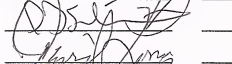
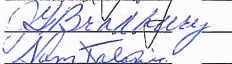

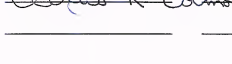
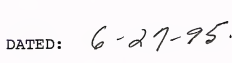


HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

DATED: 6-27-95.

Sandra E. Kennedy  
City Clerk

## CONSTRUCTION CONTRACT

Board Order 43-95 Contract 95-01 Work Order 64511

THIS CONTRACT made and entered into in triplicate this 7 day of JUNE, 1995, by and between ROBBCO, INC. herein called CONTRACTOR, and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, acting by and through the MAYOR and the BOARD OF PUBLIC WORKS, herein called OWNER;

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:

### ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following:

#### RESTORATION OF WATER MAINTENANCE UTILITY CUTS

### ARTICLE 2: THE CONTRACT SUM

The OWNER shall pay CONTRACTOR for the performance of the contract the unit price sum of \$270,821.87 (Two hundred seventy thousand eight hundred twenty one dollars and eighty seven cents). In the event the amount of work is increased or decreased by OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the CONTRACTOR'S Proposal.

### ARTICLE 3: PROGRESS PAYMENTS AND RETAINAGE

The CONTRACTOR may submit requests for payments no more often than every thirty (30) days for work performed and accepted under the contract. If the contractor is in compliance with the provisions of the contract, the Board will make payments for such work performed and completed. However, in any such case, the Board will retain ten percent (10%) of the total amount owing to insure contractor's compliance with the E.B.E. Rider attached to this contract. Payments to the contractor are not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with the E.B.E. Rider, and subject to appropriate reduction in the event of non-compliance, as provided in paragraph 6 of the E.B.E. Rider attached hereto.

#### **ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT**

Final payment shall be due at the time the work is fully completed and accepted and the contract, including the E.B.E. rider, is fully performed. Payments to the **CONTRACTOR** are not to exceed 90% of the total contract amount until the **OWNER** has verified that the **CONTRACTOR** has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

Upon filing of a **Completion Affidavit** by the **CONTRACTOR** that the work is ready for final inspection and acceptance, the **Board of Public Works** will direct the **Engineering Department** of the **OWNER** to promptly make such inspection, and will direct the **CONTRACT COMPLIANCE DEPARTMENT** of the **OWNER** to make a final recommendation on whether the **CONTRACTOR** made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider.

When the **Engineering Department** finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the **Board of Public Works**. Likewise, when the **Contract Compliance Department** determines that the **CONTRACTOR's** efforts constitute good faith efforts to attain the E.B.E. goal as agreed in the E.B.E. Rider, it shall so inform the **Board of Public Works** through an E.B.E. Compliance Final Report.

Upon receiving both the **Engineering Department's** and the **Contract Compliance Department's** recommendations, the **Board of Public Works** shall issue a **final certificate** stating that the work provided for in this Contract has been completed and is accepted, and further stating that the E.B.E. Rider goal has been met. Thereupon, the **entire balance** of the Contract sum shall be due and payable to the **CONTRACTOR**; provided only that **CONTRACTOR** shall first furnish **OWNER**, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

In the event that the **Board of Public Works** determines that good faith compliance with the E.B.E. Rider has not occurred, appropriate reduction in the final payment will be made, pursuant to paragraph 6 of the E.B.E. Rider attached hereto. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and the contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with the E.B.E. Rider, and subject to appropriate reduction in the event of non-compliance, as provided in paragraph 6 of the E.B.E. Rider attached hereto.

#### **ARTICLE 5: WORKMEN'S COMPENSATION ACT**

The **CONTRACTOR** will furnish immediately a certificate from the **Industrial Board of the State of Indiana**, that he has complied with the **Workmen's Compensation Act** in accordance with **Statutes of the State of Indiana and Ordinances of the City of Fort Wayne**.

Any judgment rendered against the **City of Fort Wayne** in any suits for Damages for injury to real or personal property, or for injury sustained by any person growing out of any act or doing of **CONTRACTOR**, or its agents, employees or workmen or any judgment of any court or award of any **Board of Arbitrators** or of the **Industrial Board of the State of Indiana** rendered against the **City of Fort Wayne** in any suit or claim arising under said **Workmen's Compensation** for accidental injuries or death suffered by his employees or the employees of any Subcontractor(s) in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said **CONTRACTOR**, shall be conclusive against **CONTRACTOR** as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that **CONTRACTOR** indemnify and hold harmless **OWNER** in the premises.

#### **ARTICLE 6: NONDISCRIMINATION OF LABOR**

The **CONTRACTOR** further agrees to be bound by Section 15-13 (as amended), of the **Code of the City of Fort Wayne, Indiana** of 1974, passed by the **Common Council of the City of Fort Wayne, Indiana** as **General Ordinance No. G-34-78 (as amended)** on December 12th, 1978. The successful bidder shall file a **Manpower Utilization Report** for this project with the **Compliance Office** within ten (10) days after completion of construction or upon request of the **Office of Compliance**.

#### **ARTICLE 7: PREVAILING WAGE SCALE**

The **CONTRACTOR** agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the **Statutes of the State of Indiana**, and the **Ordinances of the City of Fort Wayne** according to the applicable wage scale as included in the bid documents.

#### **ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT**

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a.     **Advertisement for Bids for Contract/Resolution**
- b.     **Instructions to Bidders for Contract/Resolution**
- c.     **Contractor's Proposal dated**
- d.     **Fort Wayne Engineering Department Drawing Number**
- e.     **Supplemental Specifications for Contract/Resolution**
- f.     **Workman's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne**

- g. Non-Discrimination of Labor, General Ordinance Number G-34-78 (as amended)
- h. Prevailing Wage Scale
- i. Performance and Guaranty Bond.
- j. Labor and Material Payment Bond
- k. Right-of-Way Cut Permit
- l. Comprehensive Liability Insurance Coverage
- m. Form 96
- n. E.B.E. Rider

#### **ARTICLE 9: GUARANTEE OF WORKMANSHIP**

At the time of execution of this contract, the **CONTRACTOR** shall furnish a **Performance and Guaranty Bond** in favor of the **City of Fort Wayne** in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the **OWNER**.

#### **ARTICLE 10: INDEMNITY**

**CONTRACTOR** shall furnish to **OWNER**, within ten (10) days of the date hereof, a certificate from an insurer acceptable to **OWNER** showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to **OWNER** and in accordance with the **Statutes of the State of Indiana**.

#### **ARTICLE 11: ADJUSTMENTS OF DISPUTES**

All questions or controversies which may arise between the **CONTRACTOR** and the **OWNER** under the provisions of this Contract shall be subject to the decision of the **Director of Board of Public Works** of the **OWNER**, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of work covered by this Contract will be permitted except on prior written authorization by the **Board of Public Works**.

#### **ARTICLE 12: COMPLETION DATE**

The **CONTRACTOR** agrees to complete the work specified in the contract within **90 consecutive calendar days** after having been ordered by the **OWNER** to commence work under this contract.

**ARTICLE 13: COUNCILMANIC APPROVAL**

This Agreement, although executed on behalf of the **OWNER** by the Mayor and Board of Public Works of the **City of Fort Wayne, Indiana**, shall not be binding upon the **OWNER** unless and until the same shall have been ratified and approved by the **Common Council** of the **City of Fort Wayne, Indiana**, and should said **Common Council** fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

**ARTICLE 14:**

This contract is governed by Laws of the State of Indiana.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR  
ROBBCO, INC.

CITY OF FORT WAYNE

BY: James Chesnut

James Chesnut, President

BY: \_\_\_\_\_

PAUL HELMKE, MAYOR

BY: Linda Buskirk

LINDA BUSKIRK, CHAIRMAN  
BOARD OF PUBLIC WORKS

BY: C. James Owen

C. JAMES OWEN, MEMBER

BY: Terrance P. McCaffrey

TERRANCE P. MCCAFFREY, MEMBER

ATTEST: Patricia J. Crick

PATRICIA J. CRICK, CLERK

APPROVED AS TO FORM AND LEGALITY BY: \_\_\_\_\_

ASSOCIATE CITY ATTORNEY

THIS DOCUMENT PREPARED BY: TIM A. WARREN,  
MANAGER OF WATER ENGINEERING

ACKNOWLEDGEMENT

STATE OF INDIANA)

SS:

COUNTY OF ALLEN)

**BEFORE ME**, a Notary Public, in and for said County and State, this 2nd day of June, 1995, personally appeared the within named **James Chesnut**, being by me first duly sworn upon his oath says that he is the **President** of **Robbco, Inc.**, and as such, duly authorized to execute the foregoing instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed by name, and affixed my official seal.

Michelle Counterman  
Notary Public

MICHELLE J COUNTERMAN  
NOTARY PUBLIC STATE OF INDIANA  
ALLEN COUNTY  
MY COMMISSION EXP. AUG. 2, 1996

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires:

\_\_\_\_\_  
Resident of \_\_\_\_\_ County.

TO: CITY ATTORNEY

FROM: BOARD OF PUBLIC WORKS

APPROVED BY: \_\_\_\_\_  
Linda Buskirk

DATE: June 7, 1995

SUBJECT: FILE # ASSIGNED BY RECORD LIBRARIAN

ACTION REQUEST: Please prepare ordinance to be introduced June 13, 1995 approving Construction Contract 95-01, Restoration of Water Maintenance Utility Cuts. Robbco, Inc. is the contractor.

TITLE OF ORDINANCE: Construction Contract 95-01, Restoration of Water Maintenance Utility Cuts

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Construction Contract 95-01 is for Restoration of Water Maintenance Utility Cuts. Robbco, Inc. is the contractor.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$270,821.87 (WATER UTILITY)

ASSIGNED TO COMMITTEE:

S-95-06-13